



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2014-0477; FRL -9925-77-Region 10]

Approval and Promulgation of Implementation Plans; Idaho

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to partially approve the May 22, 2014, State Implementation Plan (SIP) submittal from Idaho to revise the SIP to update the incorporation by reference of Federal air quality regulations into the SIP. The EPA is also taking final action to partially disapprove Idaho's incorporation by reference of certain provisions of the Federal prevention of significant deterioration (PSD) permitting rules that have been vacated by a Federal Court. As a result of this action, the Idaho SIP is updated to incorporate by reference certain Federal regulations as of July 1, 2013.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2014-0477. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be

publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-150, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donna Deneen at (206) 553-6706, deneen.donna@epa.gov, or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us” or “our” is used, it is intended to refer to the EPA.

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I. Background

In a notice of proposed rulemaking published on January 7, 2015 (80 FR 834), the EPA proposed action on revisions to the Idaho SIP to account for regulatory updates adopted by the Idaho Board of Environmental Quality on October 17, 2013 and submitted to the EPA on May 22, 2014. Please see our January 7, 2015, proposed rulemaking for further explanation of the revisions and the basis for our proposal to partially approve and partially disapprove the May 22, 2014, SIP submittal from Idaho. The public comment period for the proposed rule ended on

February 6, 2015. No comments were received on the proposal.

II. Final Action

Provisions the EPA is Approving and Incorporating by Reference

Consistent with the discussion and analysis in the proposed rulemaking published on January 7, 2015, the EPA is partially approving and incorporating by reference the May 22, 2014, submittal from Idaho. Specifically, we are approving and incorporating by reference the revisions to IDAPA 58.01.01.107.02 “Availability of Reference Materials” and IDAPA 58.01.01.107.03 “Incorporations by Reference,” except that we are partially disapproving the revision to IDAPA 58.01.01.107.03(c) as it relates to the incorporation by reference of specific vacated provisions at 40 CFR 52.21 (namely, 40 CFR 52.21(i)(5)(i)(c) and 40 CFR 52.21(k)(2)) for the reasons discussed in the proposal. This action updates the Idaho SIP to incorporate by reference certain Federal regulations as of July 1, 2013.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Idaho Department of Environmental Quality regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies

with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of

judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 9, 2015.

Dennis J. McLerran
Regional Administrator
Region 10.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart N - Idaho

2. In § 52.670, the table in paragraph (c) is amended by revising entry 107 to read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IDAHO REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Idaho Administrative Procedures Act (IDAPA) 58.01.01 - Rules for the Control of Air Pollution in Idaho				
*	*	*	*	*
107	Incorporations by Reference	3/20/2014, 3/30/2007, 7/1/1997, 5/1/1994	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	Except Section 107.03(f) through (p), and with respect to 107.03(c), its incorporation by reference of 40 CFR 52.21(i)(5)(i)(c) and (k)(2).
*	*	*	*	*

* * * * *

3. Section 52.683 is amended by revising paragraph (a) to read as follows:

§ 52.683 Significant deterioration of air quality.

(a) The State of Idaho Rules for Control of Air Pollution in Idaho, specifically, IDAPA 58.01.01.005 through 007 (definitions), IDAPA 58.01.01.107.03(a), (b), (c) (incorporations by reference)(except, with respect to Section 107.03(c), its incorporation by reference of 40 CFR 52.21(i)(5)(i)(c) and (k)(2)), IDAPA 58.01.01.200 through 222 (permit to construct rules); IDAPA 58.01.01.510 through 516 (stack height rules); and IDAPA 58.01.01.575 through 581 (standards, increments and area designations) (except Section 577), are approved as meeting the requirements of title I, part C, subpart 1 of the Clean Air Act for preventing significant deterioration of air quality.

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